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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMISSION

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Analytical report of the Secretary-General on internally displaced persons

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Introduction

1. The Economic and Social Council, recalling decision 90/22 adopted by the Governing Council of the United Nations Development Programme, adopted resolution 1990/78 of 27 July 1990 entitled "Refugees, displaced persons and returnees" in which it requested the Secretary-General "to initiate a system-wide review to assess the experience and capacity of various organizations, in the coordination of assistance to all refugees, displaced persons and returnees, and the full spectrum of their needs" and, on the basis of such a review, "to recommend ways of maximizing cooperation and coordination among the various organizations of the United Nations system" in responding to the problems of refugees, displaced persons and returnees.

2. The Commission on Human Rights, in its resolution 1991/25 of 5 March 1991, requested the Secretary-General to take into account the protection of human rights and the needs of internally displaced persons in his system-wide review, and to submit to the Commission at its forty-eighth session "an analytical report on internally displaced persons, based on information submitted by Governments, the specialized agencies, relevant United Nations organs, regional and intergovernmental organizations, the International Committee of the Red Cross and non-governmental organizations".

3. A Report on refugees, displaced persons and returnees (E/1991/109/Add.1) was prepared by a consultant, Mr. Jacques Cuénod, and submitted to the Economic and Social Council at its second regular session of 1991 as an annex to a note by the Secretary General prepared pursuant to resolution 1990/78. The report analyses the roles played by various United Nations entities in providing protection and assistance to refugees, displaced persons and returnees, as well as the contribution of other intergovernmental and non-governmental organizations. It proposes a more holistic and integrated approach to the political (i.e. conflict resolution), humanitarian and developmental aspects of the problems posed by these closely related groups.

4. The broader context of the present report is the evolution of the refugee problem in recent years, as indicated by the title of Economic and Social Council resolution 1990/78. The international system for the protection of refugees was created in response to the refugee problem in Europe at the close of the Second World War, in order to protect persons fleeing their country because of a "well-founded fear of persecution". Subsequently, there was growing recognition of the need for the system to take into account the causes of mass exoduses in other regions, in particular armed conflict and internal strife. Considerable progress has been made, mainly through regional instruments such as the Convention governing the specific aspects of refugee problems in Africa, adopted by the Organization of African Unity in 1969 which extends the regime for the protection of refugees to persons who flee their country "because of events seriously disturbing the public order", and the 1984 Cartagena Declaration which approves a similar approach in Latin America.

5. As the system for the protection of refugees became more flexible greater attention focused on the situation of persons in refugee-like situations excluded from the system for the protection of refugees because they had not left their country of origin. The Cuénod report (para. 10) puts the number of refugees throughout the world at approximately 17 million and the number of

internally displaced persons at approximately 24 million, the vast majority of whom are in developing nations of Asia, Latin America and especially Africa, which is home to at least half of the world's population of internally displaced persons. Ethiopia, Mozambique and Sudan alone have a combined population of between six and seven million internally displaced persons, while Afghanistan, Iraq and Sri Lanka have a combined total of between four and five million. In some of the affected countries, internally displaced persons account for well over 10 per cent of the entire population.

6. Displaced populations are often composed largely of women and children, and often are predominantly of rural origin. The reasons they have been forced to flee their homes include armed conflict, internal strife, grave human rights violations, and natural and man-made disasters, as indicated in more detail below. Multiple causes may exist within a country and there may be distinct populations of displaced persons, sometimes having little in common. Some displaced persons reside in camps; these may be open camps or camps where freedom to leave is curtailed. Some are resettled in new villages or cities or build their own urban shantytowns, while still others wander in the mountains, forests or plains far from population centres. Many of them suffer serious violations of their human rights, whether at the hands of government or other forces, before or during flight from their homes. All too often they fail to find a place of safety, and continue to suffer violations of their basic human rights in the place where they have sought refuge.

7. With very few exceptions countries harbouring large populations of internally displaced persons are developing countries with limited resources to meet large scale emergencies. In addition, material assistance for refugees is not available to countries of origin to help meet the needs of the displaced population which has not fled abroad but whose needs are usually similar, if not greater, than the needs of those who have fled. Countries burdened by large populations of internally displaced persons therefore suffer a disadvantage in terms of access to international aid.

8. The lack of aid and protection for displaced persons within their own country may oblige them to seek refuge in neighbouring countries. During the last decade the number of refugees throughout the world has doubled, leading to increased concern within the international community and a desire to find measures to stem the flow. Providing internally displaced persons with aid and protection similar to those accorded to refugees, without requiring them to leave their country to qualify for them, would be an effective and humane form of prevention. The Note on International Protection presented by the United Nations High Commissioner for Refugees to the Executive Committee of the High Commissioner's Programme in 1991 states:

> "Prevention also requires more effective utilization of human rights protection and development mechanisms. Strengthened observance of civil and political rights, but equally of economic, social and cultural rights, is fundamental in dealing with the root causes of refugee flows"... (A/AC.96/777, para. 45)

9. Nearly all of the countries having large populations of internally displaced persons are also refugee-producing countries, and the factors causing refugees and displaced persons to flee their homes are often identical. Yet there are no international standards applicable to internally displaced persons, nor any international body having special responsibility for the protection of their rights. In recent years, a number of dramatic situations in Africa, Asia and Latin America have made public opinion more sensitive to the sharp contrast between the relatively efficient international regime for the protection of refugees, and the helplessness of the international community faced with the urgent needs of internally displaced persons. From the human rights perspective, where the ultimate concern is the effective enjoyment of basic rights by all persons, without discrimination, this difference is viewed as an injustice which calls for the creation of a more effective system for the protection of the rights of internally displaced persons.

10. In pursuance of Commission resolution 1991/25, the Secretary-General on 28 June 1991 addressed a note verbale to all Governments and letters to relevant organizations, requesting information and views on the subject. In reply to those communications, information has been submitted by the Governments of Austria, Bahrain, Benin, Burkina Faso, Cape Verde, Egypt, Mexico, Paraguay, Sri Lanka, Sudan, Sweden and Turkey and by the United Nations Centre for Social Development and Humanitarian Affairs, the United Nations Development Programme, the United Nations Development Fund for Women, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations Centre for Human Settlements (Habitat), the Office of the United Nations High Commissioner for Refugees, the World Food Programme, the Food and Agriculturel Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization. The following non-governmental organizations (NGOs) also replied: Caucus of Development NGO networks of the Philippines, Christian Committee for the Displaced of El Salvador, Citizen's Disaster Rehabilitation Centre of the Philippines, Colombian Association for Social Assistance, Community and Family Services International of the Philippines, Coordinating Centre for Ecumenical Projects of Mexico, Friends World Committee for Consultation, Human Rights Watch, International Council of Voluntary Agencies, Lawyers Committee for Human Rights, Refugee Policy Group, Save the Children Fund (United Kingdom) and U.S. Committee for Refugees. Reports of the Organization on American States were also used.

11. It is regrettable that so few responses were received from Governments. Most of the information concerning the causes of displacement and its consequences for the enjoyment of human rights was submitted by NGOs. The report refers only to information concerning developments that have taken place during the last decade. Situations concerning displaced persons are often very fluid and some of the information cited, even that concerning very recent events, may no longer describe the present circumstances or may be incomplete. However, since the purpose of the report is to analyse the phenomenon of displaced persons rather than to report on specific situations, information has been used to illustrate different aspects of the phenomenon whether or not it describes a current situation. The Secretary-General has used themost reliable information available, drawing on United Nations Offices as far as possible. However, in those cases where reports are from other sources, the Secretary-General cannot guarantee their full accuracy.

12. Since resolution 1991/25 does not define what is meant by "internally displaced persons", it is necessary to establish a working definition for the purposes of this report. The third paragraph of the resolution states that the Commission is "disturbed by the high numbers of internally displaced persons suffering throughout the world, who have been forced to flee their homes and seek shelter and safety in other parts of their own country". This identifies two elements of the working definition, i.e. that internally displaced persons have been forced to flee their homes, and that they remain in the territory of "their own country".

13. The term "one's own country" may be ambiguous in some contexts. Struggles for independence often lead to situations which oblige persons to flee their homes. Whether or not such persons are classified as internally displaced or as refugees depends on what is considered to be their country. The composition of the international community is changing rapidly as more States seek and obtain independence. This process continues at the present time. For purposes of this report, therefore, the concept of "one's own country" is used to refer to recognized Member States of the United Nations and States having observer status at the time of writing this report.

14. The nationality of a group of displaced persons also may be in doubt or they may have been deprived of their nationality, for example on the basis of national or ethnic origin. In such cases the concept of "one's own country" will be interpreted in a flexible and pragmatic fashion for the purposes of this report to mean the country of nationality or, if nationality is uncertain, the country of usual residence. Displaced persons include not only those who have fled from one part of their own country to another, but also "returnees" who, having fled to another country, subsequently return to their own country but are unable to return to their original place of residence.

15. The concept of being "forced to flee" also needs to be clarified. While Commission resolution 1991/25 makes no reference to the kinds of factors which may have forced internally displaced persons to flee their homes, Economic and Social Council resolution 1990/78 refers to the "immense human suffering occasioned by the phenomenon of mass population movements resulting from conflict, natural and man-made disasters and war". This suggests that the working definition of internally displaced person should include persons forced to flee their homes by any of these causes.

16. A few of the Governments which submitted information suggested that persons who migrate for economic reasons are considered internally displaced persons. However, the Cuénod report suggests that gradual migration due to economic causes or long-term environmental change is not within the scope of the term, as used for purposes of the system-wide review:

> "Internal disturbances and gross violations of human rights can as well be the cause of forced and often large displacement of persons who may be classified either as refugees when they cross a national border or internally displaced persons when they remain within the boundaries of their country. As far as man-made and natural disasters are concerned, one can make a distinction between between causes provoking slow movements of population (such as extreme poverty and degradation of the environment) or sudden migration due to chemical or nuclear accidents or

> to earthquakes, cyclones and floods. Presumably the resolution does not cover the slow population movements which does [sic] not provoke suddenly an emergency situation but focuses on sudden and involuntary migration requiring immediate action on the part of the international community." (E/1991/109/Add.1, para. 10)

Submissions by various United Nations agencies and bodies are consistent with this interpretation.

17. Resolution 1990/78 refers specifically to "mass population movements", which suggests that the report should focus on situations in which large numbers of persons are displaced. Evictions, relocations or man-made disasters which cause the displacement of a few hundred or thousands of persons, while they may well involve important questions regarding the effective protection of the human rights of those concerned, present different issues from those posed by the involuntary displacement of tens or hundreds of thousands of persons and would need to be studied separately. Consequently, for the purposes of this report, the term "internally displaced persons" will be used to refer to persons who have been forced to flee their homes suddenly or unexpectedly in large numbers; as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters; and who are within the territory of their own country.

I. CAUSES OF DISPLACEMENT

A. Armed conflict and internal strife

18. Armed conflict and internal strife are major causes of internal displacement of populations. The countries having large numbers of displaced persons are nearly all the scene of armed conflict or internal strife, or recently have been. Five such countries alone - Afghanistan, Ethiopia, Mozambique, Sri Lanka and Sudan - account for an estimated nine to ten million internally displaced persons. Each of these countries has been affected by armed conflict, although other causes, including drought and widespread human rights violations, have also contributed to the numbers of displaced persons.

19. Population movements during armed conflict are inevitable, as the civilian population flees the fighting. Yet in some situations the number of persons forced to flee is multiplied as a result of excesses committed against the civilian population or military strategies which target the civilian population. A 1984 study by the Lawyers Committee for Human Rights and Americas Watch entitled El Salvador's Other Victims: The War on the Displaced reported that the armed forces bombed civilians in "zones of conflict" on repeated occasions during the period from 1981 to 1984, in pursuit of a deliberate strategy of "depopulating villages in the region ... to isolate the guerrillas and create problems of logistics and food supply" (pp. 33-44, quoting a report to the Committee on Foreign Affairs of the United States House of Representatives). A report on the situation of human rights in Guatemala published by the Inter-American Commission on Human Rights in 1983 concluded that a similar strategy was pursued in Guatemala during that period, with the difference that the objective was not merely to force civilians to abandon zones which were contested or under guerrilla control, but also to resettle in "strategic hamlets". The report stated that

> "in order for the government to achieve its objective of eradicating what it considers subversion, [it] has divided the peasant and Indian population into those who it considers prone to joining the socio-military programs of the government, whom it has organized into self-defence civil patrols, and those peasant and Indian sectors whom it considers leaning toward the guerrillas, and whom have been punished with all possible means, including various serious violations of human rights which sometimes have even reached the destruction and ransacking of entire villages and the killing of all their residents"... (p. 70)

The report added that

> "violence in the rural areas of conflict has shown characteristics of brutality and barbarism by the massive assassination of peasants and Indians with guns, machetes or knives; the bombing and machine-gunning of villages by land and air; the burning of houses, churches and communal houses as well as crops"... (p. 61)

According to these sources, in both countries the number of internally displaced persons produced as a result of such policies was estimated to be one-tenth of the entire population (p. 30 and p. 122, respectively). These reports generally correspond to information developed by the United Nations.

20. Forcing peasants and villagers in zones of conflict to participate in self-defence units can also contribute to massive population displacement. A study by the NGO Helsinki Watch entitled Destroying Ethnic Identity: The Kurds of Turkey indicates that displaced villagers interviewed in 1990 reported that violence and threats of violence were used to force them to join village guard units in areas where the Kurdish guerrilla movement was active (p. 13). A community leader was quoted as saying, "The government refuses to let people who do not want to be involved to get on with their lives. It wants to draw a clear line between the two sides; if you are not on the authorities' side, they consider you PKK [the insurgent movement] and treat you like PKK" (pp. 24-25). According to this study, those who do join defence units are subject to attacks by guerilla forces. The policy of forced recruitment of villagers and the violence used to implement this policy has caused thousands of persons to abandon their villages.

21. Paramilitary defence units, established at the initiative or with the acquiescence of the Government but often under little or no military control, have sometimes been responsible for grave human rights abuses which contribute to massive flight of the affected population. In a 1990 report entitled Sudan: A Human Rights Disaster, the NGO Africa Watch indicates that tribal militia groups established at government initiative, but operating with a great deal of independence, have been responsible for a series of massacres. In April 1990, in an article entitled "The forgotten war in Darfur flares again" Africa Watch reported that a force of some 3,000 militia burned 40 villages in the Darfur region in May 1989, leaving hundreds of civilians dead and an estimated 80,000 persons homeless (pp. 5-6). According to the same source, after a short-lived peace agreement militia attacks on villages resumed in 1990, with the apparent objective of forcing one of the three ethnic groups indigenous to the region to abandon their lands and move elsewhere. In addition to the massacre of civilians, the militia reportedly burned houses and crops, poisoned wells and stole or killed livestock (pp. 1-2).

22. In a report entitled The Decade of Chaqua: Peru's Internal Refugees, the U.S. Committee for Refugees, an NGO, indicates that the creation of village self-defence units was actively promoted as part of the strategy for combating the Shining Path guerrilla movement in Peru, in particular from 1983 to 1985. The consequences of this policy are described as follows:

> "The military also began obligating peasants to participate in civil defence patrols, also known as montoneros or rondas campesinas. Men and women between 15 and 60 are obligated to join. Peasants receive some military training, but except for the occasional grenade, arm themselves. Those who hesitated to join risked being labelled subversives. By 1984, some patrols were implicated in a series of bloody attacks on villages suspected of sympathies with the guerillas. In practice, patrols began to settle old scores with neighbouring villages, rephrasing long-standing land and water disputes as guerrilla-civil defence conflicts." (p. 10)

23. Population flight is also caused by abuses committed by insurgent forces. A 1987 report by Americas Watch entitled A Certain Passivity: Failing to Curb Human Rights Abuses in Peru indicates that the Shining Path movement used torture and assassination to force villagers to declare their support for the movement, to force young persons to join its ranks and to punish those suspected of supporting or collaborating with the Government, in addition to assassinating members of civil defence patrols, political activists, elected officials, including the mayors of villages, trade union and peasant leaders, priests and pastors (pp. 18-24). These practices have contributed to the numbers of persons fleeing from the zones of conflict.

24. Many of those who flee during situations of armed conflict or internal disturbances are victims of indiscriminate violence for which both the Government and the opposition forces share responsibility. The words of a peasant woman from an Andean village displaced in an urban slum, quoted in The Decade of Chaqua, illustrate the plight of countless displaced persons throughout the world:

> "Shining Path burned my house, leaving nothing, not even clothes or a blanket. Afterwards, the soldiers came and said 'You talked to the terrorists, you gave them food'. They kill, too. After them again comes Shining Path who say 'You talked to the soldiers', and kill again. Now it's the Civil Defence who help the soldiers. They kill people, too. They 'disappeared' my cousin and took my mother, my uncle and two other cousins prisoner. They took all my mother's cattle and slaughtered them. We escaped ... and then came directly here. Now our town is empty. Nobody lives there. Everyone lives here." (p. 11)

B. Forced relocation

25. Governments sometimes adopt a deliberate policy of forcing some or all of the population residing in a certain zone to vacate, usually in order to be resettled or relocated in selected camps or sites. It is useful to distinguish such resettlement from situations in which the population spontaneously decides to flee a situation which has become intolerable, even though in some cases the distinction may be difficult to apply in practice. Forced resettlement in this sense may occur as part of a counter-insurgency strategy

or in response to a natural disaster, and may be implemented in different ways. The security forces may approach the population concerned directly and oblige it to relocate by force or threat of force. If resettlement is related to an ongoing armed conflict, an inhabited region may be declared a "free-fire zone" where the civilian population is subject to military attack (e.g. bombing or shelling) at any time. The zone vacated may be systematically stripped of materials essential for survival, for example by stealing or killing livestock, poisoning wells and razing houses, either to prevent them from falling into enemy hands or to prevent the relocated population from returning.

26. In 1984 the Organization of American States published the Report on the situation of human rights of a segment of the Nicaraguan population of Moskito origin, in which the Inter-American Commission on Human Rights evaluated the legality of an incident in 1982, when the the Government of Nicaragua relocated some 8,500 Moskito Indians from their homes in a border area to camps some 50 miles away. The relocation was carried out by the armed forces, and in most cases the population as given only a few hours' notice. The Inter-American Commission on Human Rights found that the forced displacement was justified by the military incursions originating across the border which posed a threat to national security and to the lives of the relocated population (p. 118).

27. In a 1990 publication entitled Human Rights in Iraq, Middle East Watch reports that some 250,000 Kurds were forcibly relocated from villages near the Turkish and Iranian borders in Iraq in 1978 and 1979 (p. 86). According to this publication, the Government stated that the relocation was intended to protect the population concerned from the consequences of military conflict with neighbouring States by creating an unpopulated zone 30 kilometres wide along 1,200 kilometres of the border. However, observers have indicated that many villages outside the border zone were affected, suggesting that the main reason was not to protect the Kurdish population from foreign forces but to confine it in larger towns where it could be more easily controlled by the Iraqi military, depriving Kurdish guerilla groups based in the mountains of their support (p. 87). The publication alleges that thousands of towns and villages were razed and estimates that well over half the population of the Kurdish region of Iraq was affected by this forced displacement, which preceded the 1991 military offensive against the Iraqi Kurds which generated massive new flows of refugees and displaced persons (p. 90).

28. The above-mentioned report by Helsinki Watch indicates that in Turkey, emergency decree 413 adopted by the Council of Ministers on 4 April 1990 authorizes the Regional Governor in south-eastern Turkey, inter alia, to order persons who "act against the State" to be relocated to sites chosen by the Ministry of the Interior, and to order villages to be evacuated for security reasons without notice (p. 13). According to this report, some villages near the border with the Islamic Republic of Iran have been vacated pursuant to the decree (p. 26).

29. Forced displacement is not necessarily limited to border regions affected by actual or potential insurgency. The World Refugee Survey - 1991 published by the U.S. Committee for Refugees reports that in Myanmar large numbers of persons were obliged to leave their homes in the capital, Yangon, from 1988

to 1990 and resettle in undeveloped areas outside the city. The Government maintained that the resettlement was part of a beautification programme, but the publishers of the Survey, who estimate that as many as 500,000 persons were affected, allege that "the patterns of evictions indicated that neighbourhoods were being targeted primarily for political reasons" (p. 60).

30. In some cases insurgent forces oblige the civilian population to relocate to zones under their control. In a 1991 report entitled Angola: Civilians Devastated by 15-Year War, Africa Watch estimated that "probably the majority of the 600,000 to one million civilians living in UNITA areas have been abducted and forcibly relocated there by UNITA" (p. 2). The report indicates that in some cases, men, women and children were abducted together, to farm for UNITA, while in other cases only children were taken, in order to be indoctrinated and eventually incorporated into the armed forces (p. 2). In Mozambique, which has a internally displaced population estimated at two million, most of the displaced persons were forced from their homes as a result of killings and atrocities committed by the RENAMO insurgent movement, according to the World Refugee Survey (p. 48).

C. Communal violence

31. In some countries significant numbers of persons have been forced to flee their homes because of communal violence motivated by ethnic or religious hatred, but which has not taken the form of an ongoing political-military struggle. In a 1991 report entitled Glasnost in Jeopardy: Human Rights in the Soviet Union, the organization Helsinki Watch estimated that within the then Soviet Union, 300,000 persons had fled to Armenia from other Republics, an estimated 240,000 persons had fled to Azerbaijan, mainly from Armenia, Uzbekistan and Kazakhstan, and an estimated 150,000 Russians had fled to the Russian Republic from Central Asian Republics (pp. 29-31).

32. The World Refugee Survey - 1991 indicates that there are as many as one million internally displaced persons in Sri Lanka, most of them Tamils who have fled their homes as a result of fighting between the Tamil opposition forces and the Government (p. 103). However, some of the displaced population are Muslims who have fled massacres and threats of violence by the Tamils, according to the same report. In India, the World Refugee Survey states that fighting between Sikh and Muslim militants during 1990 reportedly caused over 3,000 deaths and forced thousands more to flee (p. 92).

D. Natural disasters

33. In the Philippines, some 100,000 persons were displaced as a result of the eruption of Mt. Pinatubo, according to the submission of the World Food Programme. Helsinki Watch, in the above-mentioned report on the Soviet Union, indicated that in 1991 there were still 200,000 homeless persons living in tents or makeshift huts in Armenia as a result of a 1988 earthquake which had caused 125,000 deaths and led to the displacement of hundreds of thousands of persons (p. 30).

34. Population movements in response to natural disaster may be voluntary or involuntary. An extensive relocation effort was made in Ethiopia from 1984 to 1988 motivated in part by drought and environmental deterioration in certain overpopulated regions. A 1991 report by Africa Watch entitled Evil Days: Thirty Years of War and Famine in Ethiopia alleges that, although the relocation effort was described as being voluntary, a study by the Government indicated that as many as 38 per cent of those resettled belonged to categories for whom participation was obligatory, including the urban unemployed, persons in arrears in tax payments, residents of areas designated for conservation and herders (p. 211). In addition, this report alleges that food relief was withheld from the population of areas affected by the crisis in order to persuade them to relocate to areas where food would be available (pp. 227-29) and that the relocation was carried out with violence, including the shooting of those who tried to escape while being transported to the resettlement areas or those who escaped from them (p. 219).

35. Natural disasters may coincide with other motives for resettlement, and may be cited by Governments seeking international support for displacement programmes having political or military as well as humanitarian motives. From 1984 to 1988 some 600,000 persons were relocated from the north to the south of Ethiopia, ostensibly in response to drought and famine. However, the above-mentioned Africa Watch report alleges that the real motives for certain aspects of the relocation programme were military (pp. 214-15).

E. Ecological disasters

36. The nuclear disaster which occurred in Chernobyl in 1986 is an important example of population displacement as a result of a man-made ecological disaster. The Helsinki Watch Report entitled Glasnost in Jeopardy: Human Rights in the Soviet Union indicates that the total number of persons relocated from contaminated areas in Belarus, Ukraine and the Russian Republic is estimated at 1.5 million. The report further alleges that the risks to the affected population were not disclosed fully and promptly, leading to unnecessary exposure of hundreds of thousands of persons to serious health risks, and that those displaced were not relocated until four years after the accident (pp. 29-30).

F. Systematic human rights violations

37. The preceeding paragraphs demonstrate that serious and widespread violations of basic human rights frequently are involved in the causes of massive displacement of populations, whether internally or across frontiers. As noted above, the Cuénod report recognizes that gross violations of human rights can be the cause of forced and often large displacement of refugees or internally displaced persons and the United Nations High Commissioner for Refugees also has identified massive violations of human rights as a cause of the flight of refugees and other displaced persons.

38. The information received pursuant to resolution 1991/25 suggests that human rights violations most often coincide and interact with other causes of massive displacement, in particular armed conflict. During armed conflict the civilian population often suffers indiscriminate violence, as described in section I A. In addition, in situations of civil war or internal strife this

form of indiscriminate violence may also be accompanied by systematic repression intended to intimidate or physically eliminate members of the opposition and their sympathizers through assassination, torture, destruction of homes, crops and livestock and other serious human rights violations. In classifying the reported causes of displacement, it is useful to distinguish this kind of systematic violation of human rights from the violations which are more intrinsically related to the conduct of military operations as such.

39. Some of the information submitted in response to resolution 1991/25 contains examples of displacement caused by systematic human rights violations. In Colombia, a 1991 survey of a group of displaced persons submitted by the Colombian Association for Social Assistance indicated that only 12 per cent had fled their homes as a result of actions by the military, while 65 per cent indicated that they had been forced to flee by paramilitary groups involved in torture, disappearances, forced recruitment, assassination and other human rights abuses. (Guerra Sucia y Desplazamiento: Caso Putuayo, p. 9). The 1984 study entitled El Salvador's Other Victims: The War on the Displaced reports that 1,794 persons were killed by death squads or had disappeared in circumstances indicating the involvement of death squads during the year 1983, and that those killings were a major cause of displaced persons, adding to the numbers of those who fled military attacks against the civilian population in zones of conflict and those who fled abuses committed by the opposition forces (p. 36). The information submitted by Africa Watch cited in section I B concerning Ethiopia alleges that serious human rights abuses, including beatings and assassination, have been employed in carrying out forced resettlement. Other information reflected in section I A provides examples of human rights violations perpetrated in the context of the establishment of civil defence units at the village level, thus contributing to the complex, interrelated causes of displacement in those countries.

II. CONSEQUENCES OF DISPLACEMENT FOR THE ENJOYMENT OF HUMAN RIGHTS

40. The situation of internally displaced persons varies from one country to another, and is influenced by many social, economic and political factors. There is no single syndrome common to internally displaced persons throughout the world. Yet it is evident from the information available that internally displaced persons are an especially vulnerable or high-risk group, and that they often suffer from a wide range of human rights violations. The following are some of the violations most frequently reported.

A. The right to food

41. Displaced persons may be deprived of food for a variety of reasons, either before or after their displacement. Denial of the right to food is sometimes deliberately used as a tactic to coerce population groups into leaving their place of origin. People living in a zone affected by armed conflict or controlled by opposition forces may deliberately be deprived of food because they are suspected of sharing it with the opposition forces as punishment for perceived support of opposition forces or lack of loyalty to the Government, to depopulate the zone as part of a counter-insurgency

strategy or for a combination of these reasons. Denial of food may also be the result of the employment of certain military measures without due regard for their consequences for the civilian population. The indiscriminate and often excessive use of land-mines can prevent access to or use of areas where food is produced, for example, even if this was not the intention with which they were placed. In some cases, denial of food to displaced populations appears to be motivated, at least in part, by profiteering by authorities exercising control over an area.

42. Lack of food is often the most urgent problem faced by displaced populations, and it frequently reaches life-threatening proportions. UNDP points out in its submission that both the Government and opposition forces may be responsible. Information submitted by NGOs provides some detailed examples such as the following.

43. In Sudan, an estimated 250,000 persons died as a result of famine in 1988. In a 1990 publication entitled Sudan: A Human Rights Disaster the organization Africa Watch analysed the causes of the famine as follows:

> "The famine was created by war. The most important causes for this famine are the results of deliberate policies adopted by both the government and the Sudan Peoples Liberation Army (SPLA). The most significant governmental policies included using militias and paramilitary forces. The army and SPLA tactics included 'scorched earth' policies and the SPLA also resorted to siege of government held towns. Both the government and the SPLA denied food to the civilian population in the war zones. The policies of denying relief did not create the famine, but made it much more severe when the famine occurred. These tactics included obstructing relief supplies, obstructing or distorting commercial food markets and preventing famine stricken populations from following 'coping' strategies (for instance, searching in the bush for wild foods)." (p. 103)

44. The following information from the same report illustrates the impact of these policies on the displaced population:

> "Reliable figures are available only for el Meiram camp. These show that 3,600 died from the displaced population between June 19 and October 9. These figures imply death rates at almost incredible levels of 7.1% per week, or one percent per day ... Relief agencies have estimated that a total of 30,000 displaced persons died from famine in southern Kordofan in the summer of 1988, under the eyes of army garrisons, while wagons of relief grain stood idle in nearby railway sidings." (pp. 119-20)

45. A 1984 report by Americas Watch entitled Guatemala: Nations of Prisoners indicated that peasants living in strategic hamlets reported that they had not had enough food for months prior to their entry into the hamlet because the armed forces had restricted their movements, preventing them from pursuing their usual work as seasonal farm labourers (p. 122).

46. The study entitled The Decade of Chaqua: Peru's Internal Refugees, illustrates the possible "collateral" consequences for the right to food of military activities which do not respect the rights of the civilian population:

"Political violence literally wiped out the agricultural economy in some areas. Peasants were expected to provide food for both sides, depleting already thin stores. Families who maintained several fields at different altitudes to raise different crops or animals found that the simple act of tending their farms put them at risk of being forcibly recruited by the guerrillas or shot by the soldiers looking for ... terrorists." (p. 10)

47. According to this study, land area under cultivation in Peru has fallen by 56 per cent and production by more than 78 per cent, due largely to the displacement of farmers as a result of the armed conflict (p. 20).

B. The right to shelter and adequate living conditions

48. One of the most common consequences of displacement is the concentration of the people affected in precarious settlements which often constitute a threat to health and to life itself. Several organizations reported on the situation of Kurds who, following attacks by Iraqi troops on several Kurdish towns in northern Iraq, were forced to flee to mountaintop camps with no food, water, shelter or sanitation.

49. In a statement submitted in response to resolution 1991/25, Human Rights Watch summarized its experience concerning the living conditions of displaced persons in the follows terms:

"When displacements are ordered, civilians are rarely received, as required in article 17 of Protocol II to the Geneva Conventions of 1949, under 'satisfactory conditions of shelter, hygiene, safety and nutrition'. Frequently infant deaths result from the displacement of rural inhabitants whose situation is in any case nutritionally precarious, and who have had little or no health care. Infectious diseases quickly sweep the crowded facilities into which the displaced have been herded, taking their toll on the most vulnerable."

50. Even when the relocation is motivated by the need to ensure the survival of the population concerned, if it is not conceived and implemented in an appropriate way, including respect for the human rights of those affected, a natural disaster may be compounded by a man-made disaster. For example, the 1991 Africa Watch study on Ethiopia, mentioned in section I D, concludes that some aspects of the resettlement programme carried out in the last decade were actually counter-productive:

"[The results] indicated a life-expectancy of around 6 years, compared to the normal of over 40 for the area. This level was possibly the lowest ever recorded in a scientific demographic survey, and for comparison was seven times worse than the 1972-73 famine in Bangladesh ... The author was obliged to blame the mortality rate on the famine. However, closer examination of the data indicates that that recorded among settlers already in the resettlement sites was almost equal, and that rates were similar for those from both famine and non-famine zones. The implication is that, instead of blaming the death rates on the famine, it is more logical to blame them on the resettlement programme." (p. 226)

51. Taking into account the number of persons killed during the forced relocation and during efforts to escape from resettlement sites and return home, the study concludes that "a minimum of about 50,000 persons were killed by the resettlement programme." (p. 227)

C. The right to health care

52. The health of displaced populations is often extremely perilous, due to lack of food, housing which is crowded and does not provide adequate protection from the elements, unsanitary living conditions and other problems. Apart from the health risks associated with exposure to such conditions during flight and in resettlement sites, conditions in the area of origin may have prevented delivery of public health services such as inoculation programmes, leaving the displaced population more vulnerable to disease. Consequently, their need for health care is often much greater than that of the general population.

53. A large majority of the world's internally displaced population is located in countries where public health services and infrastructure are inadequate for the needs of the general population. In such circumstances, the international community has a responsibility to help the country concerned respond to the emergency demand for health care. The duty of the local government is not only to provide such medical care as it is materially able to provide, but also to facilitate the provision of emergency medical care and relief to those in need. Reports concerning conditions affecting displaced persons, especially those in camps, frequently indicate that available medical care is far from adequate. The information available usually is not sufficient to evaluate the extent to which this deficiency may be due to failure to allocate available medical resources in response to need. However, reports of interference in the delivery of medical services to displaced persons are also common.

54. The 1984 study on displaced persons in El Salvador cited in section I A and generally confirmed by other sources available to the United Nations illustrates some of the problems which can interfere with the delivery of essential health care to displaced persons:

> "In every place we visited a severe shortage of health personnel was evident. It has become increasingly difficult for the non-governmental relief organizations to recruit medical personnel to assist the health needs in the camps where non-registered displaced persons are living. These health professionals and health workers have repeatedly been targets of governmental harassment, persecution, detention and even disappearances and/or death." (pp. 176-78)

55. Other problems affecting displaced persons in camps reported in this study included the lack of medical supplies and rudimentary conditions in examining rooms and the lack of transportation for patients requiring hospitalization or services not available in the camps. The report concludes:

> "The lack of health care the displaced receive was starkly illustrated by this study: 64% of the displaced died of 'other' causes, which indicates that the cause was unknown because they lacked medical attention prior to or at the time of death" (pp. 177-78).

56. Displaced persons have often suffered psychological trauma as a result of their experiences. A psychologist who works with displaced persons, quoted in The Decade of Chaqua: Peru's Internal Refugees, indicates that "often crippling grief, depression and feelings of guilt, nostalgia and loss of identity" are common (A. M. Rebasa, p. 27). In addition to the trauma caused by the physical violence and loss of property which often causes or accompanies displacement, relocation to a strange environment may also contribute to psychological distress. As the Inter-American Commission on Human Rights, in the 1983 report on Guatemala mentioned above, observed, "for rural inhabitants, separation from their plot of land, their people and their habitat represents a great loss that frequently proves traumatic" (p. 122). Yet psychological care is rarely available. The need for it may not even be recognized, or may be considered a luxury compared to the need for food, shelter and other pressing material needs.

57. Children are especially vulnerable, not only because of their greater susceptibility to psychological trauma, but also because their parents, if still alive, are often unable to respond adequately to the psychological needs of their children. In The Decade of Chaqua: a psychologist states:

> "Many displaced children suffer depression, nightmares and fear ... Children have been forced to participate in [guerilla] attacks, and even in assassination squads, where the loyalty test is to shoot adults identified as traitors. Children also witness military massacres, and often the rape of their mothers by soldiers ... the paintings of displaced children are filled with the images of their past lives: bodies seeping blood, armed soldiers, masked figures in threatening poses. Often, they fall far behind in school, and confront severe learning disabilities linked to the trauma they suffered ... the day-to-day struggle to survive leaves parents, particularly mothers, little energy for children." (A. M. Rebasa, pp. 29-30).

D. Right to life and personal integrity

58. The greatest threat to life among displaced populations is that which is caused by lack of food, water, health care and adequate sanitary conditions. In addition, many displaced persons become victims of violence in the places where they have sought safety, in violation of the right to physical integrity and often culminating in denial of the right to life. Such violence is sometimes linked to efforts to force them to abandon one resettlement site and relocate; sometimes it is occasioned by the search for subversives within the displaced community, and other times it appears to be motivated by discrimination or ethnic hatred. Women, who constitute a disproportionately large part of displaced populations, are especially vulnerable to physical and sexual violence, as mentioned in the report on refugee and displaced women and children based on a meeting of experts which took place in Vienna in July 1990 (E/CN.6/1991/4, paras. 26-31).

59. Information submitted by NGOs contains several examples. A 1990 study by the U.S. Committee for Refugees entitled Khartoum's Displaced Persons alleges that in 1987 the Government of Sudan began a campaign to force displaced persons who had located within the capital to leave. The campaign was carried out with considerable violence, according to this report, including rape and

killings (p. 11). In Sri Lanka, armed conflict and sectarian violence had created one million internally displaced persons in the Northeast province by July 1990, according to the World Refugee Survey - 1991. According to this source, heavy and indiscriminate bombardment in this area led tens of thousands to leave the country by boat, seeking refuge in India (p. 103).

E. Right to work and to an adequate wage

60. Throughout the world displaced populations are composed primarily of rural agricultural workers, often subsistence farmers. Many of them are forced to flee to urban areas, however, where land is not available to allow them to produce food for their own needs and where they are ill-prepared to seek other employment. Even if they are housed in camps in a rural area, there may not be land available for cultivation. In some cases, sites chosen for the settlement of displaced persons are located too far from areas of potential employment, or residents may not be allowed to travel freely, or transportation to areas where employment may be available may not exist.

61. A 1990 Middle East Watch study, Human Rights in Iraq, states:

> "The relocated Kurds face major problems in their new homes - problems of adjustment from life in the mountains to life in the hot, dry plains, and above all, problems of employment. Few have enough land to survive by farming, the only occupation most know. Some have reportedly found employment in light industry, but unemployment is rife." (p. 91)

A study by the National Commission for Assistance to the Displaced of El Salvador, quoted in El Salvador's Other Victims: The War on the Displaced found that 73.6 per cent of the displaced population registered with the Government was unemployed (p. 121). In Sudan, cases in which displaced persons were prevented from collecting and selling firewood to earn some income were reported in the 1990 Africa Watch article "The forgotten war in the Darfur flares again" (p. 130).

62. The lack of employment compounds the difficulties experienced by displaced persons in meeting basic needs, such as food, water, shelter, clothing, education and medical care, and prevents the accumulation of savings which would facilitate the return to normal life when conditions allow. The lack of employment also contributes to stress and undermines self-esteem, which in turn erodes the stability of the family.

63. Forced labour or payment of substandard wages for work performed by displaced persons has also been reported. In some resettlement sites in Ethiopia displaced persons reportedly were obliged to perform unpaid labour on state farms, according to the 1991 study by Africa Watch cited in section I, D, and a 1984 study by Americas Watch entitled Guatemala: Nation of Prisoners indicated that in one camp for displaced persons the men were obliged to participate in publics works projects in the camp and surrounding region (p. 233 and p. 122, respectively). El Salvador's Other Victims: The War on the Displaced reports that the displaced persons who performed construction work in government-supported camps were paid approximately one

half of the minimum wage established by law (p. 146). In the 1990 report Sudan: Human Rights Disaster, Africa Watch also reported discrimination against displaced persons in the conditions of work in Sudan, including the payment of wages below the market rate and being obliged to work in exchange for small amounts of food (p. 130).

F. Freedom of residence and movement

64. The right to choose one's residence and freedom of movement are both recognized by articles 13 of the Universal Declaration of Human Rights and 12 of the International Covenant on Civil and Political Rights. Forcing a person to abandon his or her residence in order to seek safety elsewhere is in itself a violation of freedom of residence, and displaced persons often suffer additional restrictions of these fundamental rights.

65. In some instances displaced persons are not allowed to choose their new place of residence freely, but are assigned to a new place of residence or are obliged to live in a camp. Those obliged to reside in camps also may be prevented from leaving them even temporarily, thus restricting freedom of movement as well as freedom of residence. The freedom of movement of displaced persons who are not confined in camps may also be limited, often by threats to their physical security.

66. Restrictions on the freedom of movement of displaced persons may have serious consequences for enjoyment of other basic rights, including the right to work and the right to food. In Sudan: Human Rights Disaster, Africa Watch points out:

> "Relief food is rarely the main reason why rural people escape starvation during famines. Western Sudan is rich in wild foods. The rural economy includes many niches in which poor people can earn small amounts of money or food, such as working on farms or selling firewood. People can also sell their animals, or seek help from relatives. Freedom of movement is critical to the success of these strategies. During the famine of 1984/5 southern Kordofan had hosted large numbers of migrants .... without experiencing mass starvation.
>
> "The activities of the army and militia prevented the displaced .... from following the normal strategies they would have employed to cope with the famine. This contributed to the mass starvation at least as much as the obstruction of relief supplies." (pp. 128-29)

G. Family unity

67. The importance of the family as the natural and fundamental unit of society, and the duty of the State to protect the family, is recognized by articles 16 of the Universal Declaration of Human Rights and 23 of the International Covenant on Civil and Political Rights. One aspect of this right is the right of the family members not to be separated involuntarily or arbitrarily. The Convention on the Rights of the Child contains several provisions spelling out the implications for children of the right to family unity.

68. Separation of family members inevitably occurs during mass flight or relocation, yet it is sometimes aggravated unnecessarily by the arbitrary and abrupt way in which persons are relocated, or by failure to take all possible measures to promote reunification of family as soon as circumstances permit. In Evil Days: Thirty Years of War and Famine in Ethiopia, Africa Watch quotes the following testimony of a displaced person, which illustrates how arbitrariness can increase the problem of separated families:

> "The government informed us that, because of the drought, they wanted us to come to a centre to receive food rations and supplies. As we gathered at this place to receive the rations, we were surrounded by soldiers on all sides. The military forced us to be loaded on a truck which took us to the resettlement sites. Those who tried to claim property or family members were beaten." (p. 219)

69. Deliberate separation of families has also been reported as, for example, in a 1985 incident referred to in the same source in which 200 men were removed from a camp for displaced persons without their families (p. 215).

H. The right to education

70. Children often constitute a disproportionately large percentage of the displaced population. Displaced children are often deprived of the right to education, whether they live in camps or are dispersed among the general population. A significant influx of displaced persons may result in a sudden increase in the population of school-age children which far exceeds the capacity of existing school facilities in the area concerned. In addition, the loss of property and livelihood resulting from displacement often makes it impossible for the parents to pay any fees or expenses which may be required.

71. In some countries, persons from zones of conflict are identified with anti-government movements and thus are subject to diverse forms of discrimination or repression, as described elsewhere in this report. Consequently, persons from such zones forced to seek refuge in the capital or other regions may keep their children from attending schools in order to avoid being identified. In other cases, children may be unable to attend schools because they do not have identity papers or because they do not speak the language used in the schools in the region to which they have fled.

I. Legal personality

72. In some countries, the loss of identity papers by displaced persons and the difficulty or impossibility of obtaining new ones is a serious obstacle for the enjoyment of basic human rights. The United Nations Crime Prevention and Criminal Justice Branch notes that persons without identity documents run the risk of being detained arbitrarily, and if accused of a crime may be ineligible for release before trial. The Decade of Chaqua reports that those without identity documents are unable to enter government buildings, use banking services or seek legal employment (p. 25).

J. Freedom of thought, association, expression and assembly

73. In its 1984-85 annual report the Inter-American Commission on Human Rights, referring to Guatemala, concluded that:

> "the right of assembly and freedom of association ... are also restricted and curtailed because existing security measures in the 'Development Poles' and the strict supervision of Civil Defence Patrols inhibit residents from taking part in any social, ideological, cultural or other assemblies or associations." (p. 156)

In Guatemala: Nation of Prisoners representatives of Americas Watch who visited a camp for displaced persons reported that the responsible military authorities freely admitted that the camp residents were subjected to political indoctrination, which is incompatible with freedom of thought and opinion (p. 121).

III. QUESTION OF THE NEED FOR NEW HUMAN RIGHTS STANDARDS CONCERNING INTERNALLY DISPLACED PERSONS

A. Views of States, United Nations bodies and non-governmental organizations

74. Some of the submissions received pursuant to resolution 1991/25 suggest that international standards concerning the human rights of displaced persons are insufficient and in need of further development. There are two main issues: whether or not existing international standards provide adequate protection against arbitrary displacement, and whether or not they provide sufficient protection to those who are displaced, either as a result of deliberate government policy or otherwise.

75. Most of the States which submitted information did not expressly state views as to whether or not new standards should be developed. The Government of Burkina Faso indicated that it favoured the adoption of an instrument concerning internally displaced persons, and no State expressed opposition to this suggestion.

76. United Nations bodies which supplied information pursuant to resolution 1991/25 likewise did not directly address the question of the possible need for new international standards concerning displaced persons. However, the 1991 Note on International Protection of the United Nations High Commissioner for Refugees mentioned above stated:

> "Within the framework of this existing body of international law, three sets of principles have tended to develop separately, although in parallel.... These are the law of refugee protection, human rights law generally and humanitarian law. Together, these three domains of law - which in reality are closely interrelated and often overlap - should ideally permit the individual to assert a claim not only against his or her own country ... but on the international community as a whole - a claim to its direct involvement on humanitarian grounds. In other words, where Governments fail to recognize individual claims, or where there is no effective Government to which an individual in the first instance might turn, there is a pressing need for that person to be able to assert

a claim more broadly. The international community seems already to be moving in this direction as a result of recent events and there might be value in examining how the legal foundations of this development could be strengthened." (para. 56)

77. The International Committee of the Red Cross submitted a working paper on persons displaced within their own countries as a result of armed conflict or disturbances dated March 1991, which states the following:

"People who have been displaced by an armed conflict are protected by article 3 common to the Geneva Conventions and by Additional Protocol II, where applicable. Additional Protocol II contains many detailed provisions that protect civilians against the effects of hostilities by prohibiting, among other things, forced displacement. ... At present, it would be difficult to improve on the law. It is important to take a global view of the problem of protecting the civilian population and of the assistance to which it is entitled. We do not feel that creating a separate category would be appropriate. On the contrary, establishing a special mandate in this area could be construed as tolerance of the questionable practices that lead to displacement, which is just what we want to prevent.

"Even if it is not necessary to develop exisiting law, those States that have not yet ratified the Additional Protocols of 1977 should be invited to do so.

"It has been suggested that a Code of Conduct be drawn up and adopted, bringing together the basic humanitarian guarantees covering situations of internal disturbances and tensions. Such a Code could be very useful provided that there is consensus among governments in favour of it and that it does not weaken existing law." (p. 12)

78. The suggestions received from non-governmental organizations are summarized in the following paragraphs.

79. The Refugee Policy Group has submitted a document entitled "Human Rights Protection for Internally Displaced Persons", which makes the following suggestions:

(a) "The forcible movement of internally displaced persons on racial, religious, ethnic or political grounds" should be prohibited;

(b) The content of the right to food should be clarified;

(c) "A basic core of human rights and humanitarian norms to which internally displaced persons ... are entitled and from which governments cannot derogate, even in times of emergency" should be established;

(d) "Standards to protect relief workers and others engaged in assisting and protecting those internally displaced" should be developed; and

(e) An "internationally recognized right to humanitarian access" (e.g. relief corridors and cross-border relief operations) should be established (pp. 23-24).

80. The suggestions made by Human Rights Watch concern the need to "reinforce and amplify" humanitarian law standards applicable to internally displaced persons. It is suggested that:

(a) International standards concerning the circumstances which allow civilians to be displaced during time of armed conflict are too broad and should be clarified;

(b) More specific minimum standards should be developed as to the conditions provided for internally displaced persons;

(c) The duty to respect the civilian population should be reaffirmed, in particular the duty not to employ military force against part-time combatants not engaged in military operations;

(d) The use of land-mines in non-international armed conflicts should be prohibited; and

(e) The prohibition of starving the civilian population in order to force it to move should be reinforced, in particular by prohibiting "military tactics that strangle agriculture and commerce".

81. The Lawyers Committee for Human Rights suggests that "restraints against forcible relocation and against the obstruction of humanitarian assistance, as found in articles 42 and 59 of the Fourth Geneva Convention" should be incorporated into international standards applicable to situations of internal strife.

82. The suggestions of the Save the Children Fund (United Kingdom) are addressed mainly to the need for adequate recognition and protection of the rights of internally displaced persons on the national level and for restructuring the response of the international community; it also suggests that "the right of accessibility of the appropriate United Nations agency to those in need should be established and guarantied".

83. The Friends World Committee for Consultation suggests that the Commission on Human Rights should establish a special rapporteur or working group whose mandate would include the "preparation of draft principles for the protection of internally displaced persons". Community and Family Services International and the Caucus of Development NGO Networks of the Philippines also suggest that an "international declaration leading to a convention on the rights of internally displaced persons" should be developed.

84. It has been suggested that new standards might be required in three basic areas: freedom of movement and residence, the rights of persons who have been displaced and the obligation of the State to facilitate the provision of relief to internally displaced persons. These three areas are analysed below.

B. Standards concerning freedom of residence and movement

85. Freedom of residence and movement are central to the question of displaced persons. Although these rights are recognized by article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights, many important questions remain as to their content and the limits or restrictions which may be imposed. The

International Covenant on Civil and Political Rights provides that freedom of residence and movement may be subject to restrictions provided for by law and which are necessary to protect national security, public order, public health, morals or the rights and freedoms of others. In addition, the International Covenant on Civil and Political Rights allows States parties to derogate from their obligations to respect these rights "in time of public emergency which threatens the life of the nation and ... which is officially proclaimed", to the extent that the measures incompatible with these rights are "strictly required by the exigencies of the situation", do not discriminate solely on the basis of race, colour, sex, language, religion or social origin, and are not inconsistent with other obligations of the State under international law (art. 4). However, not all States which harbour large populations of internally displaced persons have ratified this Covenant, which raises the question of whether or not substantially similar standards are or should be applicable to all States.

86. The standards set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights are broad, general ones intended to cover freedom of movement and residence in general rather than displacement as such. In the light of accumulated experience, it may also be possible, in addition to reaffirming the general standards contained in those instruments, to elaborate more specific guidelines concerning the situations in which displacement most often occurs, in particular displacement which is carried out as a deliberate governmental policy.

87. Additional Protocol II to the Geneva Conventions of 1949 provides in article 17 that "the displacement of the civilian population shall not be ordered for any reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand". This is an example of the type of norm specifically concerning displacement which complements the standards governing freedom of movement and residence set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and which it might be useful to reaffirm in a new declaration concerning displacement.

C. Standards concerning the rights of displaced persons

88. Existing international standards specifically concerning the rights of displaced persons are very limited. According to article 17 of Additional Protocol II to the Geneva Conventions of 1949, "should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition". This a useful provision, but it applies only to persons displaced because of armed conflict, and only to States parties to Additional Protocol II. It has been suggested that a similar rule should be applicable to all internally displaced persons, regardless of the cause of their displacement.

89. Although international standards specifically concerning displaced persons may be very limited, existing human rights standards applicable to the general population are also applicable to displaced persons. The question is whether or not generally applicable norms concerning the right to life, physical integrity, food, medical care and other basic rights provide a sufficient legal framework for protecting the rights of displaced persons, without the development of new standards.

90. In the "Report on the situation of human rights of a segment of the Nicaraguan population of Moskito origin" mentioned earlier, the Inter-American Commission on Human Rights concluded that the forcible displacement of several thousand indigenous persons from the villages in a border area subject to invasion by oppositions forces based in a neighbouring country to camps some 50 kilometres inland was justified because of the existence of an emergency threatening the life of the nation. However, the Inter-American Commission also decided that the displacement would be compatible with the human rights of the population concerned only if certain conditions were met, in particular, that the Government formally recognize the right of the persons concerned to return to their homes once the emergency had been resolved, that they receive compensation for property lost as a result of the displacement and aid in resettling themselves in their original homes when that became possible (pp. 119-122). The conclusions of the Inter-American Commission on Human Rights in this case illustrate the types of human rights issues specific to displaced persons which arise on a regular basis in many parts of the world.

91. The information available concerning internally displaced persons indicates that, although the wrongs they suffer and the needs they experience can be defined in terms of already recognized rights, the situation in which they find themselves differs significantly from that of the general population. Internally displaced persons typically have suffered from a series of human rights violations which add up to a characteristic and distinctive syndrome. The cumulative effect of these violations, together with the fact of having been forced to flee their home and the difficulties, risks and deprivations invariably associated with their new situation, make their needs qualitatively different from those of other persons.

92. Existing human rights standards provide general principles which can be used, as the Inter-American Commission on Human Rights has done, to identify the treatment to which displaced persons are entitled. The elaboration of a text setting forth more specific principles or guidelines concerning the treatment which should be accorded to internally displaced persons in order to ensure effective protection of their basic human rights might well be a constructive step towards ameliorating the fate of the millions of persons in this situation. Providing positive guidance to States faced with this problem, rather than limiting the role of competent human rights bodies to a retrospective review of the compatibility of the actions taken by States with their obligations under international human rights law, might enhance the effectiveness of the global international human rights programme.

D. The question of a right to humanitarian access

93. The question of a right to humanitarian access is a complex one, and one which concerns not only international human rights law but also basic principles of public international law and the interpretation of the Charter of the United Nations. It can be approached from three different perspectives: from the perspective of general principles of public international law, from the perspective of the mandates of the relevant United Nations agencies or bodies, or from the perspective of the rights of the individuals or populations in danger, that is, the human rights point of view.

94. Some of the information submitted pursuant to resolution 1991/25 approached this question from the first or second perspective. Several NGO submissions referred to the question of what new institutional arrangements might be made to allow the United Nations system to respond more effectively to the problem of internally displaced persons. The Cuénod report has already carefully analysed the respective mandates of the various United Nations bodies and the relationship between them.

95. The submission of the Government of Sri Lanka states that "any international initiative on internally displaced persons must be taken subject to the paramount principle of State sovereignty, and the related principles of non-interference and non-intervention in the internal affairs of states established under the Charter of the United Nations", and the submission of the Government of Mexico also mentions the importance of strict respect for the principle of non-intervention in the internal affairs of States. The submission of the Government of Austria states in part:

> "As a recognized principle of public international law, the nationals of any country are to be granted certain minimum rights. There exists increased recognition also in the context of migrants and refugees that each state should carry the primary responsibility for the well-being of its own citizens by creating an appropriate climate of personal, legal, economic and environmental security. It is imperative to enhance this concept of state responsibility towards its own citizens; this is also in relation to the necessity of averting flows of internal migrants as well as to the need for the protection of voluntary returnees... Experience shows that massive internal displacement tends to rapidly affect neighbouring countries or regions. It would, therefore, appear to be also in the interest of the international community and in particular of the countries of the region to respond to the humanitarian needs by supplying material and financial assistance to local authorities involved and the displaced persons themselves".

96. In this regard, the 1991 Note on International Protection of the High Commissioner for Refugees stated that "adequate protection of internally displaced persons is a key factor in the prevention of refugee flows and in ensuring the durability of repatriates' reintegration in their country of origin" (para. 56).

97. For purposes of the present report, which focuses on the human rights dimension of the problem of internally displaced persons, the question of the right of humanitarian access must be viewed from the perspective of the rights of the individuals and populations concerned, leaving to competent United Nations organs the responsibility for reconciling the human rights aspect with other legal and political considerations. The concept of a right to humanitarian access is intended to ensure that internally displaced persons are not deprived of that which is essential to their survival - notably food, water, shelter, sanitation, medical care and perhaps protection against unlawful physical violence and military force. These rights are already recognized in the Universal Declaration of Human Rights. Every person is entitled to enjoyment of them, and every State is obliged to respect them.

98. The international law of human rights was conceived of initially as a body of rights and obligations applying essentially to the relationship between a State and its citizens and other persons within its jurisdiction under the tutelage of the international community. Recognition of a right of humanitarian access as a human right would require introducing new elements into this relationship between the individual and the State, either by recognizing the individual as having rights which can be asserted against entities beyond the State, or recognizing obligations of the State which go beyond its duties to persons within its territory.

99. The above-mentioned UNHCR Note on International Protection invokes the former approach, suggesting that international law "should ideally permit the individual to assert a claim not only against his or her own country ... but on the international community as a whole - a claim to its direct involvement on humanitarian grounds". Existing procedures for investigating disappearances, summary or arbitrary executions, torture, arbitrary detention and certain other human rights violations can be seen as a step in this direction. The proposed right of humanitarian access would represent a major advance in the recognition of the right to make such claim, since the victims would no longer be limited to requesting an inquiry, but would be entitled to request material aid in meeting urgent basic needs.

100. There are also precedents in recognizing the duty of States to cooperate with the international community in fulfilling their obligations toward persons under their jurisdiction. The International Covenant on Economic, Social and Cultural Rights provides, in article 2.1, that

> "each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, ... with a view to achieving progressively the full realization of the rights recognized in the present Covenant..."

Article 4 of the Convention on the Rights of the Child recognizes this obligation in even stronger terms:

> "States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation."

101. This provision clearly recognizes an obligation on the part of the State to avail itself of international cooperation when such is needed to protect adequately the economic, social and cultural rights of persons for whom the State is directly and primarily responsible. Of course, this obligation is entered into voluntarily by States by virtue of ratification of the Convention. But when the lives and physical integrity of massive numbers of persons are at risk, the legal obstacles to extension of this obligation to all States should not be insurmountable. The fact that large numbers of States have accepted this obligation by ratifying these two treaties is promising, and indeed may be evidence of the emergence of a customary norm concerning the existence of such an obligation.

102. Concern with clarification and development of the right of humanitarian access is due to a situation in recent history where hundreds of thousands of persons perished due to the refusal of the Government concerned to allow international bodies to deliver relief to populations in need. Prevention of the delivery of relief in such circumstances made compared to genocide when the victims are members of a national, ethnic, racial or religious group, or to crimes against humanity, as defined by the Nuremberg Principles (Convention on the Prevention and Punishment of the Crime of Genocide, art. II; Principles of International Law Recognized in the Charter of the Nuremberg Tribunal..., International Law Commission, A/1316, 1950, principle VI c). A firmer legal basis good support efforts by the competent international bodies to prevent the recurrence of such tragedies and contribute to the establishment of a clearer framework for determining when such intervention is needed and justified. The avoid latter would help to what the Cuénod report refers to as "one of the main problems in the response [to recent complex emergencies], namely its ad hoc nature" (para. 129).

E. Summary of analysis of the need for new standards concerning internally displaced persons

103. There is at present no clear statement of the human rights of internally displaced persons, or those at risk of becoming displaced. The applicable international law is a patchwork of customary and conventional standards: some of it is applicable to all persons, some of it is applicable only to certain subgroups of displaced persons (e.g. those displaced because of armed conflict), and parts of it may not be applicable at all in certain situations, such as an emergency threatening the life of the nation, or, on the contrary, may be applicable only during certain situations, such as a state of emergency. There are some 20 million displaced persons around the world, most of whom suffer, have suffered or risk suffering extremely serious violations of their basic human rights. This humanitarian and human rights crisis of major proportions has motivated calls for clear guidelines concerning the human rights of the affected population, guidelines which could be applied to all internally displaced persons regardless of the cause of their displacement, the country concerned, or the legal, social, political or military situation prevailing therein.

104. Elaboration of such guidelines would consist, at least in part, of clarifying the implications of existing human rights law for persons who are internally displaced and fashioning from existing standards one comprehensive, universally applicable body of principles which addresses the main needs and problems of such persons. Among the issues which might be addressed are the following:

(a) The circumstances justifying restriction or temporary suspension of freedom of residence;

(b) Procedures and safeguards intended to ensure that involuntary displacement is not imposed or implemented arbitrarily, or that voluntary resettlement is voluntary;

(c) Principles governing the protection and enjoyment of basic human rights frequently affected by displacement, such as freedom of movement, family unity, and non-discrimination and equal protection of law;

(d) General principles concerning the provision of and access to emergency relief, care and essential services;

(e) Principles concerning the duration of displacement, reparation and the right to return.

105. Such principles might be useful not only to States but also to international relief and development agencies, which sometimes lack experience and knowledge of the human rights aspects of their work. The submissions received pursuant to resolution 1991/25, as well as existing instruments of limited application, such as Additional Protocol II to the Geneva Conventions of 1949 and the Convention on the Rights of the Child, contain many proposals and ideas which might be helpful in the preparation of such a text.

IV. INTERNATIONAL MECHANISMS FOR PROTECTING THE HUMAN RIGHTS OF DISPLACED PERSONS

106. The Cuénod report concludes that "the complexity of the issues" of emergencies involving large population movements "necessarily needs mobilization of the entire United Nations system" (para. 129). Referring to the role of the United Nations Centre for Human Rights, the report notes that the Commission on Human Rights has

> "frequently resorted to the establishment of special rapporteurs or working groups to examine ways and means of enhancing human rights protection. At this point in time, such procedures exist in the area of enforced or involuntary disappearances, summary or arbitrary executions, torture, arbitrary detention, religious intolerance, the question of mercenaries and the problem of the sale and abuse of children. Policy-making organs may wish to consider creating a similar mechanism for dealing with the human rights aspects of internally displaced persons." (para. 51)

107. The UNDP submission states:

> "More time may be needed to define the exact nature of a right to relief, but this should not further delay acknowledgement by the international community that inflicting suffering and even death on a person by refusing them ... available relief assistance constitutes a fundamental human rights violation. It should not also delay practical steps to include the monitoring and acting upon such violations as part of the mainstream work of human rights groups, including the UN Commission on Human Rights".

108. The Friends World Committee for Consultation recommends the creation of a working group or the appointment of a rapporteur on internally displaced persons, while the Lawyers Committee for Human Rights concludes that "consideration should be given to the establishment of a United Nations Court on the Protection of Refugees and Displaced Persons". The submissions received from States do not express views on this point.

109. If the massive displacement of persons requires the mobilization of all competent parts of the United Nations system, as suggested by the Cuénod report, protection of the human rights of internally displaced persons requires greater involvement of the United Nations human rights system. A number of submissions received from NGOs contain accusations that the response of the United Nations to some previous emergencies was insensitive to the human rights impact of relief operations. Whether this perception is accurate or not, it demonstrates the need for better linkage between the the United Nations human rights system and United Nations bodies responsible for humanitarian relief. UNDP recognizes its lack of expertise in human rights matters:

> "Another area where assistance overlaps with human rights and protection issues is that of how the approaches used for providing assistance can increase or reduce protection problems.... Experienced relief professionals come to recognize the importance of considering protection issues in their assistance work, often through painful first hand experience. However, such professionals are in short supply, and much relief work in the field is done by relatively inexperienced staff."

110. Assuming this responsibility to participate more actively in the response of the United Nations system to humanitarian crises involving displaced persons requires the creation of a focal point within the human rights system. Other United Nations bodies may contribute expertise in logistics, in the evaluation of the material needs of the population concerned, in delivery of essential services or in diplomatic negotiations to seek a solution to the situation. The role of the United Nations human rights system should be to evaluate the human rights implications of the above, on the basis of experience acquired in similar situations and with independence.